

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

QUANG PHAM, §
Plaintiff, §
§
§
v. § Civil Action No. 4:24-cv-3181
§
§
CITY OF HOUSTON §
HOUSTON POLICE DEPARTMENT §
DUC DUONG, §
Defendants. §

**DEFENDANT DUC DUONG'S
NOTICE OF FILING REMOVAL**

TO THE HONORABLE UNITED STATES DISCTRRICT COURT JUDGE:

Defendant, Duc Duong (Duong) files this Notice of Removal. In support of said notice, Defendant Duong would respectfully show the Court as follows:

I. Local Rule - 81

1. Pursuant to Local Rule 81 for the Southern District of Texas, attached are the following:

- Exhibit 1: Plaintiff's Original Verified Petition
- Exhibit 2: Copy of current docket sheet in the State Court Action
- Exhibit 3: List of all parties of record
- Exhibit 4: Index of documents filed

II. STATE COURT ACTION

2. On or about August 2, 2024, Plaintiff, Quang Pham, commenced a civil action in the 113th Judicial District Court of Harris County, Texas, by filing “Plaintiff’s Original Petition” alleging false arrest and false imprisonment, malicious prosecution and defamation bearing the caption Quang Pham vs. City of Houston, Houston Police Department and Duc Duong (Cause # 2024-41479). (Ex. 1.)

3. The district courts of the United States have original jurisdiction over this action on the federal question presented in Plaintiff’s Complaint – namely the alleged violations of his Fourth Amendment, Fifth Amendment, and due process rights [Ex. 1]. Original jurisdiction over such matters is conferred upon federal district courts by 28 U.S.C. 1331, which states that “the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.” 28 U.S.C. §1331; *see also* 28 U.S.C. §§1441(a) and (b). Therefore, removal of this action is proper.

Plaintiff’s complaint raises a federal cause of action, pursuant to the U.S. Constitution. (Ex. 1) Accordingly, Duong removes this case and invokes this Court’s federal question subject matter jurisdiction.

III. GROUNDS FOR REMOVAL

Federal Question Jurisdiction

4. The district courts of the United States have original jurisdiction over this action on the federal questions presented in Plaintiff’s Original Complaint; namely, the alleged violations of the U.S. Constitution. (Ex. 1)

5. Original jurisdiction over such matters is conferred upon federal district courts by 28 U.S.C. §1331, which states that “the district courts shall have original jurisdiction of all civil

actions arising under the Constitution, laws or treaties of the United States.” 28 U.S.C. §1331; *see also* 28 U.S.C. §§1441(a)-(b), 1443. In addition to the original jurisdiction granted by 28 U.S.C. §1331, the Court likewise has pendant jurisdiction over any state law claims pursuant to 28 U.S.C. §1337. Therefore, removal of this action is proper.

Venue

6. Venue is proper in this district and division because the State Court Action is pending in Harris County, Texas, which is located within the Southern District of Texas, Houston Division. *See* 28 U.S.C. §1441(a). Venue is also proper in this district and division under 28 U.S.C. § 1443 because this is a civil action for an act under color of authority derived from a law providing for equal rights and because Plaintiff commenced this proceeding in a State court in this district and division. Additionally, venue is proper in this district and division because a substantial part of the events or omissions giving rise to Plaintiff’s claim occurred, if at all, in this judicial district. 28 U.S.C. § 1391(b).

Removal is Timely

7. Defendant has 30 days after receipt of the initial pleading setting forth a federal cause of action to file a notice of removal. *See* 28 U.S.C. §1446(b)(1); *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68-69 (1996); *Crockett v. R.J. Reynolds Tobacco Co.*, 436 F.3d 529, 532 (5th Cir. 2006). Duong was served with Plaintiff’s Original Petition on August 2, 2024. (Ex. 1) This Notice of Removal is filed within 30 days of Officer’s receipt of Plaintiff’s Original Petition and is therefore timely filed under 28 U.S.C. §1446(b)(1).

Consent Required

8. To Defendant’s knowledge, Plaintiff has not properly served any other named defendants therefore consent to removal is not required from any other named defendant. 28

U.S.C. § 1446(b)(2)(A). Houston and HPD has fulfilled all procedural requirements to timely remove the State Court Action.

HPD Not Properly Joined

HPD need not join in or consent to removal. As a non-jural entity, HPD is not properly joined.

Notice Given

9. Simultaneously with the filing of this removal, notice will be given to Plaintiff and all parties who have appeared via their attorneys of record, if any. Additionally, a copy of this Notice of Removal will be filed with the Clerk of the District of Harris County, Texas in the State Court Action under Cause #2024-41479.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Duong, pursuant to these statutes and in conformance with the requirements of 28 U.S.C. §1446, remove this action for trial from the 113th Judicial District Court of Harris County, Texas (Cause #2024-41479) to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

**ARTURO G. MICHEL
City Attorney**

Date: August 26, 2024.

By: /s/ Christy L. Martin
Christy L. Martin
Chief Torts/Civil Rights
ATTORNEY IN CHARGE
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/s/ Joy Thomas
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***ATTORNEYS FOR DEFENDANT
DUC DUONG***

CERTIFICATE OF SERVICE

I certify that, pursuant to Federal Rules of Civil Procedure, a true copy of the instrument to which this Certificate is attached was duly served upon all parties through their counsel of record via electronic filing manager and/or certified mail return receipt requested, on August 26, 2024, to:

Tiffany Bartley Sams
114 Heights Blvd, Unit I
Houston, Texas 77007
tiffanysams@pathlightlegalcorporation.com

/s/ Joy Thomas
Joy Thomas